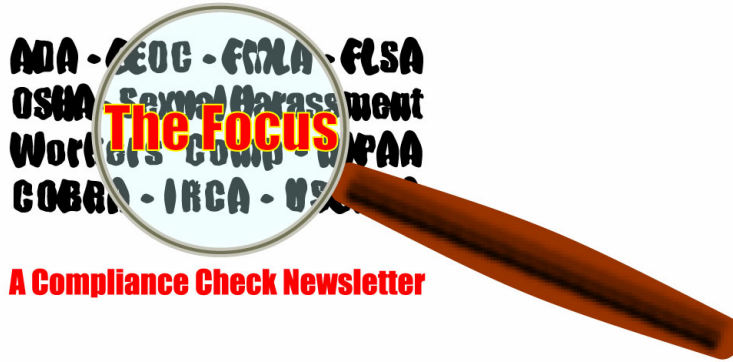




Date: June, 2004



A Compliance Check Newsletter

New FLSA Enforcement Task Force

U.S. Secretary of Labor Elaine L. Chao named a new enforcement task force within the Wage and Hour division of the Department of Labor to maximize protection of workers' pay rights under new Overtime rules.

“This Administration is setting new enforcement records in helping workers recover back pay and overtime pay,” said Secretary of Labor Elaine L. Chao. “Both the new Overtime Security rule and this taskforce reinforce our proven commitment to protecting workers' rights. The other reason for creating this enforcement task force is our concern that the massive misinformation campaign against the new Overtime Security rules could undermine efforts to make employers live up to their new obligations under the rule and jeopardize workers' overtime pay protections,” said Chao.

The new rules expand the number of workers eligible for overtime by nearly tripling the salary threshold. Under the 50-year-old regulations, only workers earning less than \$8,060 annually were guaranteed overtime. Under the new rules, workers earning \$23,660 or less are guaranteed overtime.

A text version of the new rules may be found at www.dol.gov/fairpay. For further information about the Fair Labor Standards Act, visit the Department of Labor's Wage and Hour Division web page at www.dol.gov.

Charging Party Calls Firing from Entertainment Troupe 'Worst Day of My Life'

The U.S. Equal Employment Opportunity Commission announced the settlement of an employment discrimination case under the Americans with Disabilities Act of 1990 (ADA) against Cirque du Soleil, (U.S.), Inc. for \$600,000 and significant remedial relief on behalf of a performer who was fired for being HIV-positive. Montreal-based Cirque du Soleil is an international circus and entertainment troupe with 2,700 employees worldwide.

EEOC reached the voluntary resolution with Cirque du Soleil through the agency's conciliation process after investigating a charge of discrimination filed by Matthew

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Cusick, who worked as an aerial gymnast, and finding "reasonable cause" that the company violated the ADA.

"When I was fired from Cirque du Soleil it was the worst day of my life," said Mr. Cusick. "Today is nearly the exact opposite because I stood up for what I knew was right and changed one of the world's most popular entertainment companies."

In addition to the monetary payment to Mr. Cusick, the negotiated settlement requires Cirque du Soleil to appoint an equal employment opportunity officer to oversee the annual training of its employees on the laws enforced by the EEOC, with an emphasis on HIV/disability discrimination, and to post a Notice in its workplace about the resolution of the case.

Under the terms of the agreement, Mr. Cusick will receive \$300,000 in compensatory damages, the maximum allowed for an individual under the ADA; \$200,000 in front pay; \$60,000 in lost wages; and \$40,000 in attorneys' fees. (Source: www.eeoc.gov)

Excavation Hazards at Baton Rouge Worksite Bring OSHA Citations and Fines Totaling \$65,000

A Baton Rouge construction company's alleged failure to protect employees from trenching and excavation hazards has resulted in proposed penalties of \$65,000 from the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA).

Boone Services Inc., a water and sewer excavation contractor that employs about 60 workers was issued citations for alleged willful, serious and repeat safety violations following an OSHA inspection that began Feb. 17 at the company's Baton Rouge worksite.

The alleged willful violation was issued for failing to protect employees from the hazards of a cave-in while installing concrete drainage piping at the base of a 7-foot-deep trench. OSHA defines a willful violation as one committed with intentional disregard of or plain indifference to the requirements of the Occupational Safety and Health Act.

Two alleged serious violations were issued for failing to prohibit employees to stand underneath a suspended load of concrete pipe and for failing to train and instruct employees in the recognition and avoidance of unsafe conditions associated with trenching and excavations. A serious violation is one that could cause death or serious physical harm to employees and the employer knew or should have known of the hazard.

One alleged repeat violation was issued for failing to provide employees with a safe means of access and egress from the trench. The company should have provided a ladder or ramp. A repeat violation is defined as a violation that was previously cited where, upon re-inspection, a substantially similar violation is found. Boone Services was fined \$700 as a result of OSHA's inspection on May 28, 2003, for the same violation.